

## SUBCHAPTER F—RECORDS

### PART 81—PUBLIC AVAILABILITY OF GENERAL ACCOUNTING OFFICE RECORDS

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AUTHORITY: 31 U.S.C. 711.

SOURCE: 49 FR 38527, Oct. 1, 1984, unless otherwise noted.

#### § 81.1 Purpose and scope of part.

This part implements the policy of the U.S. General Accounting Office (GAO) with respect to the public availability of GAO records. While GAO is not subject to the Freedom of Information Act (5 U.S.C. 552), GAO's disclosure policy follows the spirit of the act consistent with its duties and functions and responsibility to the Congress. Application of this act to GAO is not to be inferred from the provisions of these regulations.

#### § 81.2 Administration.

The administration of this part is the duty and responsibility of the Director, Office of Policy (OP), U.S. General Accounting Office, 441 G Street, NW., Washington, D.C. 20548, and to that end the Director shall promulgate such supplemental rules or regulations as may be necessary.

#### § 81.3 Definitions.

As used in this part:

(a) *Identifiable* means a reasonably specific description of a particular record sought, such as the date of the record, subject matter, agency or person involved, etc., which will permit location or retrieval of the record.

(b) *Records* includes all books, papers, manuals, maps, photographs, reports, and other documentary materials, regardless of physical form or characteristics under the control of GAO in pur-

suance of law or in connection with the transaction of public business. In the context of a request for a record or records, the term "records" refers only to a record in being and under the control of GAO. It does not include the compiling or procuring of a record. Nor does it include library or museum material made or acquired and preserved solely for reference or exhibition purposes, or extra copies of documents preserved only for convenience of reference. It is intended that GAO publications are not within the purview of this order. GAO published reports and decisions or listing of reports should be obtained from the U.S. General Accounting Office, Information Handling and Support Facility (IHSF), P.O. Box 6015, Gaithersburg, Md. 20877, phone (202) 275-6241.

(c) *Records available to the public* means records which may be examined or copied or of which copies may be obtained, in accordance with this part, by the public or representatives of the press regardless of interest and without specific justification.

(d) *Disclose or disclosure* means making available for examination or copying, or furnishing a copy.

(e) *Person* includes an individual, partnership, corporation, association, or public or private organization other than a Federal agency.

#### § 81.4 Requests for identifiable records.

(a) A request to inspect or obtain a copy of an identifiable record of GAO must be submitted in writing to the Director, OP (see § 81.2), who will promptly acknowledge and record the request.

(b) The Director, OP, or other GAO organizational unit will promptly honor the request if no valid objection exists to the propriety of such action and the requester is willing and able to pay the prescribed fees for making the record available for inspection or copying or being provided with a copy.

(c) In the event of an objection or doubt as to the propriety of providing the requester with a copy of the record

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sought, every effort will be made to resolve such problems as quickly as possible, including consultation with appropriate GAO elements. If it is determined that the record should be withheld, the Director, OP, shall inform the requester in writing that the request has been denied; shall identify the material withheld; and shall explain the basis for the denial.

(d) A person whose request is denied shall be informed that further consideration of his/her request may be obtained by a letter to the Comptroller General of the United States setting forth the basis for the belief that the denial of the request was unwarranted.

### **§81.5 Records originating outside GAO, or records involving work in progress.**

(a) It is the policy of GAO not to provide records from its files that originate in another agency or nonfederal organization to persons who may not be entitled to obtain the records from the originator. In such instances, requesters will be referred to the person or organization that originated the records.

(b) In order to avoid disruption of work in progress, and in the interests of fairness to those who might be adversely affected by the release of information which has not been fully reviewed to assure its accuracy and completeness, it is the policy of GAO not to provide records which are part of ongoing reviews or other current projects. In response to such requests, GAO will inform the requester of the estimated completion date of the review or project so that the requester may then ask for the records. At that time, the records may be released unless exempt from disclosure under §81.6.

### **§81.6 Records which may be exempt from disclosure.**

The public disclosure of GAO records contemplated by this part does not apply to records, or parts thereof, within any of the categories listed below. Unless precluded by law, the Director, OP, may nevertheless release records within these categories.

(a) Congressional correspondence and other papers relating to work performed in response to a congressional

request (unless authorized by the congressional requester), and congressional contact memoranda.

(b) Records specifically required by an Executive Order to be kept secret in the interest of national defense or foreign policy. An example of this category is a record classified under Executive Order 12356, National Security Information.

(c) Records related solely to the internal personnel rules and practices of an agency. This category includes, in addition to internal matters of personnel administration, internal rules and practices which cannot be disclosed without prejudice to the effective performance of an agency function. Examples within the purview of this exemption are guidelines, and procedures for auditors, investigators, or examiners.

(d) Records specifically exempted from disclosure by statute provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(e) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential. This exemption may include, but is not limited to, business sales statistics, inventories, customer lists, scientific or manufacturing processes or development information.

(f) Personnel and medical files and similar files the disclosure of which could constitute a clearly unwarranted invasion of personal privacy. This exemption excludes from disclosure all personnel and medical files, and all private or personal information contained in other files, which, if disclosed to the public, would amount to a clearly unwarranted invasion of the privacy of any person. An example of such other files within the exemption would be files compiled to evaluate candidates for security clearance.

(g) Records and information compiled for law enforcement purposes.

(h) Records having information contained in or related to examination, operation, or condition reports prepared

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by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(i) Records containing geological and geophysical information and data (including maps) concerning wells.

(j) Inter-agency or intra-agency memoranda, letters or other materials that are part of the deliberative process. For example, this exemption includes internal communications such as GAO or other agency draft reports, and those portions of internal drafts, memoranda and workpapers containing opinions, recommendations, advice or evaluative remarks of GAO employees. This exemption seeks to avoid the inhibiting of internal communications, and the premature disclosure of documents which would be detrimental to an agency function.

(k) Records in addition to those described in paragraph (j) of this section containing information customarily subject to protection as privileged in a court or other proceedings, such as information protected by the doctor-patient, attorney-work product, or lawyer-client privilege.

(l) Unsolicited records containing information submitted by any person to GAO in confidence and records which GAO has obligated itself not to disclose. An example of records covered by this exemption would be information obtained by the GAO Fraud Referral and Investigations Group (GAO Hotline).

[49 FR 38527, Oct. 1, 1984, as amended at 53 FR 50913, Dec. 19, 1988]

### §81.7 Fees and charges.

(a) No fee or charge will be made for:

(1) Records provided under provisions of this part when the direct search and reproduction costs are less than \$25.

(2) Records requested which are not found or which are determined to be exempt under provisions of this part.

(3) Staff-hours spent in resolving any legal or policy questions pertaining to the request.

(4) Copies of records including those certified as true copies, that are furnished for official use to any officer or employee of the federal government.

(5) When necessary or desirable to the performance of a function of GAO, copies of pertinent records furnished to

a party having a direct and immediate interest in a matter pending before the Office.

(b) When costs are \$25 or more, the fees and charges described below, will be assessed for the direct costs of search and reproduction of records available to the public under this part.

(1) The reproduction charge per page shall be 20 cents.

(2) Certification of authenticity shall be \$10 for each certificate.

(3) Search for records by office personnel.

(i) Clerical personnel—\$10 an hour.

(ii) Professional personnel—\$20 an hour.

(4) Other direct costs related to the request may be charged for such items as computer searches.

(c) GAO shall notify the requester and may require an advance deposit where the anticipated fees will exceed \$50.

(d) Fees and charges shall be paid by check or money order payable to the U.S. General Accounting Office.

(e) Fees established by this section may be waived or reduced upon a determination by the Director, OP, that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Persons seeking such waiver or reduction of fees may be required to submit a statement setting forth the intended purpose for which the records are requested or otherwise indicate how disclosure will primarily benefit the public and, in appropriate cases, explain why the volume of records requested is necessary. Determinations pursuant to this paragraph are solely within the discretion of GAO.

[49 FR 38527, Oct. 1, 1984, as amended at 53 FR 50913, Dec. 19, 1988]

### §81.8 Public reading facility.

A public reading facility shall be maintained by the General Accounting Office at 441 G Street NW., Washington, DC. The facility, under the control of the Office of the General Counsel, shall be open to the public from 8:30 a.m. to

5:00 p.m. except Saturdays, Sundays, and holidays.

[53 FR 50913, Dec. 19, 1988]

## **PART 82—FURNISHING RECORDS OF THE GENERAL ACCOUNTING OFFICE IN JUDICIAL PROCEEDINGS**

Sec.

- 82.1 Court subpoenas or requests.
- 82.2 Fees and charges.

AUTHORITY: 31 U.S.C. 711, 713, 714, 718, 3523, 2524, 2526, and 3529.

### **§ 82.1 Court subpoenas or requests.**

(a) A subpoena or request from a court for records of the General Accounting Office should be directed to the Comptroller General of the United States and served upon the Records Management and Services Officer, Office of Information Systems and Services.

(b) In honoring a court subpoena or request original records may be presented for examination but must not be presented as evidence or otherwise used in any manner by reason of which they may lose their identity as official records of the General Accounting Office. They must not be marked or altered, or their value as evidence impaired, destroyed, or otherwise affected. In lieu of the original records, certified copies will be presented for evidentiary purposes since they are admitted in evidence equally with the originals (31 U.S.C. 704).

[33 FR 358, Jan. 10, 1968, as amended at 45 FR 84955, Dec. 24, 1980; 47 FR 56980, Dec. 22, 1982]

### **§ 82.2 Fees and charges.**

The provisions of § 81.7 of this chapter are applicable to this part; however, where the charging of fees is appropriate, they need not be collected in advance.

[33 FR 358, Jan. 10, 1968, as amended at 47 FR 56980, Dec. 22, 1982]

## **PART 83—PRIVACY PROCEDURES FOR PERSONNEL RECORDS**

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- 83.4 Conditions of disclosure.
- 83.5 Specific disclosure of information.
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- 83.7 GAO policy and requirements.
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- 83.21 Exemptions.

### **APPENDIX I TO PART 83—MEMORANDUM OF UNDERSTANDING**

AUTHORITY: 31 U.S.C. 711(1); Memorandum of Understanding between the U.S. Office of Personnel Management, the National Archives and Records Service of the General Services Administration and the U.S. General Accounting Office; 4 CFR part 81; 5 CFR parts 294–297; and 31 U.S.C. 731, *et seq.*

SOURCE: 50 FR 13162, Apr. 3, 1985, unless otherwise noted.

### **§ 83.1 Purpose and scope of part.**

This part describes the policy and prescribes the procedures of the U.S. General Accounting Office (GAO) with respect to maintaining and protecting the privacy of GAO personnel records. While GAO is not subject to the Privacy Act (Act) (5 U.S.C. 552a), GAO's policy is to conduct its activities in a manner that is consistent with the spirit of the Act and its duties, functions, and responsibilities to the Congress. Application of the Privacy Act to GAO is not to be inferred from the provisions of these regulations. These regulations are designed to safeguard individuals against invasions of personal privacy by requiring GAO, except as otherwise provided by law, to—

(a) Protect privacy interests of individuals by imposing requirements of accuracy, relevance, and confidentiality for the maintenance and disclosure of personnel records;

(b) Inform individuals of the existence of systems of personnel records maintained by GAO containing personal information; and